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Attorneys for Defendant, the Borough of Carlstadt

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

PAUL QASSIS and PETRA HOLDINGS,
LLC,

Plaintiffs,

v.

BOROUGH OF CARLSTADT,

Defendant.

Civil Action No.: 2:22-cv-03713-
SDW-MAH

**ANSWER OF DEFENDANT
BOROUGH OF CARLSTADT, SEPARATE
DEFENSES, JURY DEMAND,
DESIGNATION OF TRIAL COUNSEL AND
CERTIFICATION**

Defendant Borough of Carlstadt, by and through its attorneys Brickfield & Donahue, and by way of Answer to the Complaint of the Plaintiffs, says:

INTRODUCTION

1. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One of Plaintiffs' Complaint.

PARTIES

2. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph Two of Plaintiffs' Complaint.

3. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph Three of Plaintiffs' Complaint.

4. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph Four of Plaintiffs' Complaint.

JURISDICTION AND VENUE

5. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph Five of Plaintiffs' Complaint.

6. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph Six of Plaintiffs' Complaint.

FACTUAL AND LEGAL BACKGROUND

A. Carlstadt's History of Opposing Affordable Housing

7. Defendant Borough of Carlstadt admits to the

allegations set forth in Paragraph Seven of Plaintiffs' Complaint.

8. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph Eight of Plaintiffs' Complaint.

9. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph Nine of Plaintiffs' Complaint.

10. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph Ten of Plaintiffs' Complaint.

11. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph Eleven of Plaintiffs' Complaint.

12. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph Twelve of Plaintiffs' Complaint.

B. Carlstadt's Initial Resistance to Petra's Project

13. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph Thirteen of Plaintiffs' Complaint.

14. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of

the allegations set forth in Paragraph Fourteen of Plaintiffs' Complaint.

15. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph Fifteen of Plaintiffs' Complaint.

16. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph Sixteen of Plaintiffs' Complaint.

17. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph Seventeen of Plaintiffs' Complaint.

18. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph Eighteen of Plaintiffs' Complaint.

19. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph Nineteen of Plaintiffs' Complaint.

20. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph Twenty of Plaintiffs' Complaint.

21. Defendant Borough of Carlstadt admits to the

allegations set forth in Paragraph Twenty-One of Plaintiffs' Complaint.

22. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph Twenty-Two of Plaintiffs' Complaint.

23. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph Twenty-Three of Plaintiffs' Complaint.

24. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph Twenty-Four of Plaintiffs' Complaint.

25. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph Twenty-Five of Plaintiffs' Complaint.

26. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph Twenty-Six of Plaintiffs' Complaint.

C. Carlstadt Attempts to Take Credit for the Project's Affordable Housing, Then Reneges on its Obligations under the Settlement in the 2015 Litigation

27. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph Twenty-Seven of Plaintiffs' Complaint.

28. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph Twenty-Eight of Plaintiffs' Complaint.

29. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph Twenty-Nine of Plaintiffs' Complaint.

30. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph Thirty of Plaintiffs' Complaint.

31. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph Thirty-One of Plaintiffs' Complaint.

32. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph Thirty-Two of Plaintiffs' Complaint.

33. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph Thirty-Three of Plaintiffs' Complaint.

34. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph Thirty-Four of Plaintiffs' Complaint.

35. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph Thirty-Five of

Plaintiffs' Complaint.

36. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph Thirty-Six of Plaintiffs' Complaint.

37. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph Thirty-Seven of Plaintiffs' Complaint.

38. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph Thirty-Eight of Plaintiffs' Complaint.

39. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph Thirty-Nine of Plaintiffs' Complaint.

40. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph Forty of Plaintiffs' Complaint.

41. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph Forty-One of

Plaintiffs' Complaint.

42. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph Forty-Two of Plaintiffs' Complaint.

43. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph Forty-Three of Plaintiffs' Complaint.

44. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph Forty-Four of Plaintiffs' Complaint.

45. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph Forty-Five of Plaintiffs' Complaint.

46. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph Forty-Six of Plaintiffs' Complaint.

47. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph Forty-Seven of Plaintiffs' Complaint.

D. Carlstadt Takes Affirmative Steps to Undermine the Project

48. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph Forty-Eight of Plaintiffs' Complaint.

49. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph Forty-Nine of Plaintiffs' Complaint.

50. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph Fifty of Plaintiffs' Complaint.

51. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph Fifty-One of Plaintiffs' Complaint.

52. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph Fifty-Two of Plaintiffs' Complaint.

53. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph Fifty-Three of Plaintiffs' Complaint.

54. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph Fifty-Four of Plaintiffs' Complaint.

55. Defendant Borough of Carlstadt denies the

allegations set forth in Paragraph Fifty-Five of Plaintiffs' Complaint.

56. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph Fifty-Six of Plaintiffs' Complaint.

57. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph Fifty-Seven of Plaintiffs' Complaint.

58. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph Fifty-Eight of Plaintiffs' Complaint.

E. Carlstadt Claims a Fake "Emergency" and Effects a Taking of the Property in Order to Obstruct the Project

59. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph Fifty-Nine of Plaintiffs' Complaint.

60. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph Sixty of Plaintiffs' Complaint.

61. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph Sixty-One of

Plaintiffs' Complaint.

62. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph Sixty-Two of Plaintiffs' Complaint.

63. Defendant Borough of Carlstadt admits to hiring the contractor to backfill the excavation Project as part of the Borough's emergency declaration but lacks knowledge or information sufficient to form a belief as to the truth of the balance of the allegations set forth in Paragraph Sixty-Three of Plaintiffs' Complaint.

64. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph Sixty-Four of Plaintiffs' Complaint.

65. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph Sixty-Five of Plaintiffs' Complaint.

66. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph Sixty-Six of Plaintiffs' Complaint.

67. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph Sixty-Seven of Plaintiffs' Complaint.

68. Defendant Borough of Carlstadt lacks knowledge or

information sufficient to form a belief as to the truth of the allegations set forth in Paragraph Sixty-Eight of Plaintiffs' Complaint.

69. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph Sixty-Nine of Plaintiffs' Complaint.

70. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph Seventy of Plaintiffs' Complaint.

71. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph Seventy-One of Plaintiffs' Complaint.

72. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph Seventy-Two of Plaintiffs' Complaint.

73. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph Seventy-Three of Plaintiffs' Complaint.

74. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph Seventy-Four of Plaintiffs' Complaint.

75. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph Seventy-Five of Plaintiffs' Complaint.

76. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph Seventy-Six of Plaintiffs' Complaint.

77. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph Seventy-Seven of Plaintiffs' Complaint.

78. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph Seventy-Eight of Plaintiffs' Complaint.

79. Defendant Borough of Carlstadt admits that revised shoring and excavation plans were provided to the Borough's Engineer in or about August 2020, however the Borough lacks knowledge or information sufficient to form a belief as to the truth of the balance of the allegations set forth in Paragraph Seventy-Nine of Plaintiffs' Complaint.

80. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph Eighty of Plaintiffs' Complaint.

81. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph Eighty-One of

Plaintiffs' Complaint.

82. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph Eighty-Two of Plaintiffs' Complaint.

83. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph Eighty-Three of Plaintiffs' Complaint.

84. Defendant Borough of Carlstadt admits that the referenced letters were written by Petra but lacks knowledge or information sufficient to form a belief as to the balance of the allegations set forth in Paragraph Eighty-Four of Plaintiffs' Complaint.

85. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph Eighty-Five of Plaintiffs' Complaint.

86. Defendant Borough of Carlstadt admits to requiring Petra revise its shoring plans before issuing the permits but denies the balance of the allegations set forth in Paragraph Eighty-Six of Plaintiffs' Complaint.

87. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph Eighty-Seven of Plaintiffs' Complaint.

88. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph Eighty-Eight of

Plaintiffs' Complaint.

89. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph Eighty-Nine of Plaintiffs' Complaint.

90. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph Ninety of Plaintiffs' Complaint.

91. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph Ninety-One of Plaintiffs' Complaint.

92. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph Ninety-Two of Plaintiffs' Complaint.

93. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph Ninety-Three of Plaintiffs' Complaint.

94. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph Ninety-Four of Plaintiffs' Complaint.

95. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of

the allegations set forth in Paragraph Ninety-Five of Plaintiffs' Complaint.

F. Carlstadt Continues its Violation of the Monitor's August 11 Letter Order and Plaintiffs' Civil Rights

96. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph Ninety-Six of Plaintiffs' Complaint.

97. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph Ninety-Seven of Plaintiffs' Complaint.

98. Defendant Borough of Carlstadt admits to issuing the tax assessment but denies the balance of the allegations set forth in Paragraph Ninety-Eight of Plaintiffs' Complaint.

99. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph Ninety-Nine of Plaintiffs' Complaint.

100. Defendant Borough of Carlstadt admits to the allegations set forth in Paragraph One Hundred of Plaintiffs' Complaint.

101. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred One of Plaintiffs' Complaint.

102. Defendant Borough of Carlstadt denies the

allegations set forth in Paragraph One Hundred Two of Plaintiffs' Complaint.

103. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Three of Plaintiffs' Complaint.

104. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph One Hundred Four of Plaintiffs' Complaint.

105. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Five of Plaintiffs' Complaint.

LEGAL CLAIMS

COUNT I

(Breach of Contract - Developer's Agreement)

106. Defendant Borough of Carlstadt incorporates by reference its responses from Paragraphs One to One Hundred Five as if fully set forth at length herein.

107. Defendant Borough of Carlstadt admits to the allegations contained in paragraph One Hundred Seven of Plaintiffs' Complaint.

108. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Eight of Plaintiffs' Complaint.

109. Defendant Borough of Carlstadt denies the

allegations set forth in Paragraph One Hundred Nine of Plaintiffs' Complaint.

110. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Ten of Plaintiffs' Complaint.

WHEREFORE, Defendant Borough of Carlstadt demands judgment dismissing the Complaint and awarding it attorney fees, cost of suit and such other relief that the Court deems appropriate.

COUNT II
(Breach of Covenant of Good Faith and Fair Dealing)

111. Defendant Borough of Carlstadt incorporates by reference its responses from Paragraphs One to One Hundred Ten as if fully set forth at length herein.

112. Defendant Borough of Carlstadt admits the allegations set forth in Paragraph One Hundred Twelve of Plaintiffs' Complaint.

113. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Thirteen of Plaintiffs' Complaint.

114. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Fourteen of Plaintiffs' Complaint.

115. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Fifteen of

Plaintiffs' Complaint.

116. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Sixteen of Plaintiffs' Complaint.

117. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Seventeen of Plaintiffs' Complaint.

WHEREFORE, Defendant Borough of Carlstadt demands judgment dismissing the Complaint and awarding it attorney fees, cost of suit and such other relief that the Court deems appropriate.

**COUNT III
(Tortious Interference with Contract - Petra's Centra Loan Agreement)**

118. Defendant Borough of Carlstadt incorporates by reference its responses from Paragraphs One to One Hundred Seventeen as if fully set forth at length herein.

119. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Nineteen of Plaintiffs' Complaint.

120. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Twenty of Plaintiffs' Complaint.

121. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Twenty-One

of Plaintiffs' Complaint.

122. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Twenty-Two of Plaintiffs' Complaint.

123. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Twenty-Three of Plaintiffs' Complaint.

124. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Twenty-Four of Plaintiffs' Complaint.

WHEREFORE, Defendant Borough of Carlstadt demands judgment dismissing the Complaint and awarding it attorney fees, cost of suit and such other relief that the Court deems appropriate.

COUNT IV
(Violation of 42 U.S.C. § 1983 and Takings Clause of the
Fifth Amendment to the U.S. Constitution)

125. Defendant Borough of Carlstadt incorporates by reference its responses from Paragraphs One to One Hundred Twenty-Four as if fully set forth at length herein.

126. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Twenty-Six of Plaintiffs' Complaint.

127. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Twenty-Seven of Plaintiffs' Complaint.

128. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Twenty-Eight of Plaintiffs' Complaint.

129. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Twenty-Nine of Plaintiffs' Complaint.

130. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Thirty of Plaintiffs' Complaint.

WHEREFORE, Defendant Borough of Carlstadt demands judgment dismissing the Complaint and awarding it attorney fees, cost of suit and such other relief that the Court deems appropriate.

**COUNT V
(Inverse Condemnation)**

131. Defendant Borough of Carlstadt incorporates by reference its responses from Paragraphs One to One Hundred Thirty as if fully set forth at length herein.

132. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph One Hundred Thirty-Two of Plaintiffs' Complaint.

133. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Thirty-Three of Plaintiffs' Complaint.

134. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Thirty-Four of Plaintiffs' Complaint.

135. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Thirty-Five of Plaintiffs' Complaint.

136. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Thirty-Six of Plaintiffs' Complaint.

137. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Thirty-Seven of Plaintiffs' Complaint.

WHEREFORE, Defendant Borough of Carlstadt demands judgment dismissing the Complaint and awarding it attorney fees, cost of suit and such other relief that the Court deems appropriate.

COUNT VI
(Violation of 42 U.S.C. § 1983 and Equal Protection Clause
of the Fourteenth Amendment to the U.S. Constitution)

138. Defendant Borough of Carlstadt incorporates by reference its responses from Paragraphs One to One Hundred Thirty-Seven as if fully set forth at length herein.

139. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Thirty-Nine of Plaintiffs' Complaint.

140. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph One Hundred Forty of Plaintiffs' Complaint.

141. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph One Hundred Forty-One of Plaintiffs' Complaint.

142. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Forty-Two of Plaintiffs' Complaint.

143. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Forty-Three of Plaintiffs' Complaint.

144. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Forty-Four of Plaintiffs' Complaint.

WHEREFORE, Defendant Borough of Carlstadt demands judgment dismissing the Complaint and awarding it attorney fees, cost of suit and such other relief that the Court deems appropriate.

COUNT VII
(Violation of 42 U.S.C. § 1983 and Substantive Due Process
Rights Under the Fifth and Fourteenth Amendments to the
U.S. Constitution)

145. Defendant Borough of Carlstadt incorporates by reference its responses from Paragraphs One to One Hundred Forty-Four as if fully set forth at length herein.

146. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Forty-Six of Plaintiffs' Complaint.

147. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Forty-Seven of Plaintiffs' Complaint.

148. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Forty-Eight of Plaintiffs' Complaint.

149. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Forty-Nine of Plaintiffs' Complaint.

150. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Fifty of Plaintiffs' Complaint.

WHEREFORE, Defendant Borough of Carlstadt demands judgment dismissing the Complaint and awarding it attorney fees, cost of suit and such other relief that the Court deems appropriate.

COUNT VIII
(Violation of N.J. Civil Rights Act, N.J.S.A. 10:6-2, and
Equal Protection Rights of Art. I, Para. 1 of the New
Jersey Constitution)

151. Defendant Borough of Carlstadt incorporates by reference its responses from Paragraphs One to One Hundred Fifty as if fully set forth at length herein.

152. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Fifty-Two of Plaintiffs' Complaint.

153. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth Paragraph One Hundred Fifty-Three of Plaintiffs' Complaint.

154. Defendant Borough of Carlstadt lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph One Hundred Fifty-Four of Plaintiffs' Complaint.

155. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Fifty-Five of Plaintiffs' Complaint.

156. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Fifty-Six of Plaintiffs' Complaint.

157. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Fifty-Seven of Plaintiffs' Complaint.

WHEREFORE, Defendant Borough of Carlstadt demands judgment dismissing the Complaint and awarding it attorney fees, cost of suit and such other relief that the Court deems appropriate.

**COUNT IX
(Violation of N.J. Civil Rights Act, N.J.S.A. 10:6-2, and
Due Process Rights of Art. I, Para. 1 of the New Jersey
Constitution)**

158. Defendant Borough of Carlstadt incorporates by reference its responses from Paragraphs One to One Hundred Fifty-Seven as if fully set forth at length herein.

159. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Fifty-Nine of Plaintiffs' Complaint.

160. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Sixty of Plaintiffs' Complaint.

161. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Sixty-One of Plaintiffs' Complaint.

162. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Sixty-Two of Plaintiffs' Complaint.

163. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Sixty-Three of Plaintiffs' Complaint.

WHEREFORE, Defendant Borough of Carlstadt demands judgment dismissing the Complaint and awarding it attorney fees, cost of suit and such other relief that the Court deems appropriate.

COUNT X
(Violation of N.J. Law Against Discrimination, N.J.S.A.
10:5-12(1))

164. Defendant Borough of Carlstadt incorporates by reference its responses from Paragraphs One to One Hundred Sixty-Three as if fully set forth at length herein.

165. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Sixty-Five of Plaintiffs' Complaint.

166. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Sixty-Six of Plaintiffs' Complaint.

167. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Sixty-Seven of Plaintiffs' Complaint.

168. Defendant Borough of Carlstadt denies the allegations set forth in Paragraph One Hundred Sixty-Eight of Plaintiffs' Complaint.

WHEREFORE, Defendant Borough of Carlstadt demands judgment dismissing the Complaint and awarding it attorney fees, cost of suit and such other relief that the Court deems appropriate.

AFFIRMATIVE DEFENSES

FIRST DEFENSE

Plaintiffs have failed to state a claim upon which relief may be granted.

SECOND DEFENSE

Plaintiffs are barred from recovery due to its prior breach of the Contract.

THIRD DEFENSE

The claims against Defendant are barred by the terms and conditions of the Contract.

FOURTH DEFENSE

Plaintiffs are barred from recovery as a consequence of their failure to comply with the terms stipulated in the Contract.

FIFTH DEFENSE

Any losses suffered by Plaintiffs are a direct consequence of their own breach of the Contract and their failure to mitigate damages.

SIXTH DEFENSE

Any damages suffered by Plaintiffs are a result of

their own actions or inactions.

SEVENTH DEFENSE

Plaintiffs are barred from recovery by the equitable doctrine of unjust enrichment.

EIGHTH DEFENSE

Plaintiffs are barred from recovery of damages, if any, by the doctrine of equitable recoupment.

NINTH DEFENSE

Plaintiffs are barred from recovery by the equitable doctrine of laches.

TENTH DEFENSE

Plaintiffs are barred from recovery by the equitable doctrine of estoppel.

ELEVENTH DEFENSE

Plaintiffs are barred from recovery by the equitable doctrine of waiver.

TWELFTH DEFENSE

The Court lacks jurisdiction over all or a portion of Plaintiffs' claims.

THIRTEENTH DEFENSE

Defendant reserves the right to assert any additional defenses that may arise through discovery.

FOURTEENTH DEFENSE

The Complaint is barred by the applicable Statute of

Limitations.

FIFTEENTH DEFENSE

The Complaint is barred, in whole or in part, by the doctrine of Election of Remedies.

SIXTEENTH DEFENSE

The Complaint is barred by virtue of the doctrines of waiver, equitable estoppel, collateral estoppel, res judicata, entire controversy and/or laches.

SEVENTEENTH DEFENSE

The Complaint is barred by virtue of insufficiency of process and insufficiency of service of process.

EIGHTEENTH DEFENSE

The Complaint is barred by virtue of lack of subject-matter jurisdiction.

NINETEENTH DEFENSE

The Complaint is barred by virtue of lack of personal jurisdiction.

TWENTIETH DEFENSE

The Complaint is barred by virtue of improper venue.

TWENTY-FIRST DEFENSE

The Complaint is barred by the doctrine of unclean hands.

TWENTY-SECOND DEFENSE

Plaintiffs failed to exhaust administrative remedies.

TWENTY-THIRD DEFENSE

Defendant breached no duty or obligation owed to Plaintiffs.

TWENTY-FOURTH DEFENSE

Defendant performed each and every duty owed to Plaintiffs.

TWENTY-FIFTH DEFENSE

Defendant says that any damages suffered by Plaintiffs as a result of the circumstances plead in Plaintiffs' Complaint were the direct result of Plaintiffs' failure to take reasonable action to prevent damages.

TWENTY-SIXTH DEFENSE

The acts and/or injuries complained of in the Complaint were caused and/or contributed to by the acts of third person(s) and/or entities over which Defendant had no control.

TWENTY-SEVENTH DEFENSE

At all times relevant hereto, Defendant complied with all federal, state and local statutes, regulations and/or ordinances in effect.

TWENTY-EIGHTH DEFENSE

Plaintiffs' claims are barred by virtue of an intervening cause relieving Defendant of responsibility.

TWENTY-NINTH DEFENSE

Defendant is not liable for punitive damages.

THIRTIETH DEFENSE

Plaintiffs are not entitled to an award of attorney's fees as to any of the statutory claims set forth in the Complaint, as Plaintiffs will not be the prevailing party as to these claims.

THIRTY-FIRST DEFENSE

Defendant affirmatively and specifically pleads each and every defense, limitation, immunity and protection provided under the New Jersey Tort Claims Act, N.J.S.A. 59:1 et seq. and hereby place Plaintiffs on notice that each such statutory protection is hereby raised as a separate and affirmative defense throughout every stage of this case.

THIRTY-SECOND DEFENSE

Defendant is entitled to qualified and/or absolute immunity.

THIRTY-THIRD DEFENSE

Plaintiffs' common law claims and claims for punitive damages are barred by the application of the New Jersey Tort Claims Act, N.J.S.A. 59:1 et seq.

THIRTY-FOURTH DEFENSE

Plaintiffs failed to comply with the Notice of Claims provisions of the New Jersey Tort Claims Act and, as a result thereof, are forever barred from making common law claims based in tort.

THIRTY-FIFTH DEFENSE

Defendant is immune pursuant to the various immunities provided by the New Jersey Tort Claims Act.

RIGHT TO AMEND OR SUPPLEMENT ANSWER

Defendant Borough of Carlstadt reserves the right to amend or supplement its Answer at or before trial, as additional information is obtained through investigation and discovery.

JURY TRIAL DEMAND

Defendant Borough of Carlstadt hereby demands a trial by jury on all issues so triable.

CERTIFICATION PURSUANT TO L. CIV. R. 11.2

I certify that apart from a tax lien filed against the Property, this matter is not the subject of any other action pending in any court, or of any pending arbitration or administrative proceeding; no other action, arbitration or administrative proceeding is contemplated to my

knowledge; and I know of no other parties who should be joined in this action at this time.

CLEARY GIACOBBE ALFIERI JACOBS LLC

169 Ramapo Valley Road
Upper Level Suite 105
Oakland, New Jersey 07436
973-845-6700
Attorneys for Defendant
Borough of Carlstadt

By: s/ Jessica V. Henry
Jessica V. Henry, Esq.

Dated: July 12, 2023

CERTIFICATION OF SERVICE

I certify that the within Answer was served on this date via electronic delivery upon the following counsel of record via ECF filing:

Angelo J. Genova, Esq.
Matthew I. W. Baker, Esq.
Genova Burns, LLC
494 Broad Street
Newark, NJ 07102

CLEARY GIACOBBE ALFIERI JACOBS LLC

169 Ramapo Valley Road
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973-845-6700
Attorneys for Defendant
Borough of Carlstadt

By: s/ Jessica V. Henry
Jessica V. Henry, Esq.

Dated: July 12, 2023